

Assembly Bill No. 1654

Passed the Assembly September 16, 2008

Chief Clerk of the Assembly

Passed the Senate September 16, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 8880.1, 8880.4, 8880.5, 8880.25, 8880.26, 8880.321, 8880.38, 8880.48, 8880.56, 8880.62, 8880.64, and 8880.65 of, to add Sections 8880.4.5 and 8880.5.5 to, and to repeal Section 8880.63 of, the Government Code, and to amend Section 5 of the California State Lottery Act of 1984, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1654, Committee on Budget. California State Lottery.

(1) The California State Lottery Act of 1984, enacted by initiative, authorizes a California State Lottery and provides for its operation and administration by the California State Lottery Commission and the Director of the California State Lottery, with certain limitations. The act provides that none of its provisions may be changed by the Legislature except to further its purpose by a bill passed by a $\frac{2}{3}$ vote of each house of the Legislature and signed by the Governor. The act establishes the State Lottery Fund, which is continuously appropriated for the purposes of the California State Lottery. Existing law provides that the purpose of the act is support for the preservation of the rights, liberties, and welfare of the people by providing additional moneys to benefit education without the imposition of additional or increased taxes.

This bill would provide instead that the purpose of the act is support for preservation of the rights, liberties, and welfare of the people by providing additional moneys to benefit education either directly or indirectly by providing funds to pay the General Fund and infrastructure bond obligations without the imposition of additional or increased taxes. The bill would provide that the act may be changed for the purposes of modernizing the lottery or to further the purpose of the act. The bill would provide that specified provisions regarding General Fund appropriations and California State Lottery Fund appropriations may only be amended by a vote of the people. The bill would state the intent of the People of California to permanently secure the contribution that the California State Lottery has made to funding public education, as specified.

Specified provisions of the bill would become effective only upon approval by the voters at the next statewide election. The bill would set forth the language to be used for the ballot label and the ballot title and summary relating to these measures in a supplemental state ballot pamphlet.

(2) Existing law requires that not less than 84% of the total annual revenues from the sale of state lottery tickets or shares be returned to the public in the form of prizes and net revenues to benefit public education, and that no more than 16% of those revenues be used for expenses of the lottery. Existing law requires that all unclaimed prize money revert to the benefit of public education, and that all of the interest earned upon funds held in the State Lottery Fund be allocated to the benefit of public education. Existing law defines net revenues for the purposes of the act.

This bill would require instead, commencing with the 2009–10 fiscal year, that not less than 87% of the total annual revenues of the state lottery be returned to the public, and no more than 13% be used for lottery expenses. The bill would define total revenues of the state lottery to include revenue from the sale of tickets or shares, merchandising revenue, advertising revenue, interest earnings on moneys in the State Lottery Fund, and unclaimed prizes. The bill would modify the definition of net revenues, as specified.

(3) Existing law requires that 50% of the total annual lottery revenues be returned to the public in the form of prizes, and that 34% of those revenues be used to benefit public education.

This bill would require, instead, commencing with the 2009–10 fiscal year, that not less than 50%, of the total annual lottery revenues, in an amount to be determined by commission, be returned to the public in the form of prizes. The bill would require that \$1,000,000 be allocated to the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs for problem gambling awareness and treatment programs. The bill would establish the Lottery Assets Fund, to be continuously appropriated, and would require that the amount of net revenues designated by the Director of Finance as lottery revenue assets subject to sale pursuant to specified provisions of law relating to the securitization of lottery revenues be transferred to the Lottery Assets Fund. The bill would require the net annual

revenues remaining to be transferred to the Debt Retirement Fund, and would allow those funds to be appropriated by the Legislature to repay General Fund budgetary obligations, infrastructure bond debts, and the Economic Recovery Bonds, including reimbursement to the General Fund for the costs of these debts.

(4) Existing law requires that, to the extent that expenses of the lottery are less than 16% of the total annual revenues, any surplus funds be allocated to the benefit of public education.

This bill would provide, instead, that, to the extent that expenses of the lottery are less than 13% of the total annual revenues, any surplus funds may be carried over from year to year upon a determination by the commission that the carryover furthers the purpose of the act, provided that the annual total revenues for any year allocated for payment, plus carried over revenues, shall not exceed 16% of the annual total revenues for the year in which carried over revenues are available.

(5) Existing law establishes the California State Lottery Education Fund, and requires that payments be made from that fund directly to various educational entities based on specified factors.

This bill, commencing with the 2009–10 fiscal year, would appropriate sums on an annual basis from the General Fund to specified educational entities in amounts equal to the payments made to the above entities during the 2008–09 fiscal year under the provisions described above, adjusted for inflation and attendance, as specified.

(6) Existing law exempts the lottery from specified provisions of law applicable to state agencies.

This bill would also exempt the lottery, with respect to certain expenditures, from specified provisions of law governing contracting by state agencies.

(7) Existing law requires one of the deputy directors of the lottery to be responsible for a security division to assure integrity, honesty, and fairness in the operation and administration of the lottery, including an examination of the qualifications and criminal history of all prospective and current employees, prospective and current lottery game retailers, and prospective and current lottery suppliers. Existing law requires that fingerprints be obtained in this process and be furnished to the Department of Justice.

This bill would allow the commission to adopt regulations for alternate methods of examining the qualifications and criminal history of lottery game retailers and lottery suppliers.

(8) Existing law allows the director of the lottery to purchase or lease goods and services as are necessary for effectuating the purposes of the provisions governing the lottery.

This bill would instead provide that the director has express authority, subject only to commission approval, to make any and all expenditures as are necessary or reasonable for effectuating the purposes of those provisions.

(9) Existing law requires the director, in all procurement decisions, to award contracts to the responsible supplier submitting the lowest and best proposal that maximizes the benefits to the state in relation to the areas of security, competence, experience, and timely performance.

This bill would delete the requirement that the director award contracts to the responsible supplier submitting the lowest proposal.

(10) Existing law requires the commission to adopt and publish competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than \$100,000.

This bill would instead require the commission to adopt and publish those procedures for any procurement or contract involving an expenditure of more than \$500,000.

(11) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. More than 20 years having passed since the inception of the California State Lottery, the Lottery, as a state-owned asset, should be authorized to modernize its operations in order to improve its financial performance.

SEC. 2. Section 8880.1 of the Government Code is amended to read:

8880.1. The People of the State of California declare that the purpose of this Act is support for preservation of the rights, liberties and welfare of the people by providing additional moneys to benefit education either directly or indirectly by providing funds to pay General Fund and infrastructure bond obligations without the imposition of additional or increased taxes.

The People of the State of California further declare that it is their intent that the net revenues of the California State Lottery that are allocated for public education shall not be used as substitute funds but rather shall supplement the total amount of money allocated for public education in California.

It is further the intent of the People of California to permanently secure the contribution that the California State Lottery has made to funding public education by increasing the minimum guarantee set forth in Section 8 of Article XVI of the California Constitution.

SEC. 3. Section 8880.4 of the Government Code is amended to read:

8880.4. For fiscal years prior to the 2009–10 fiscal year, total revenues of the lottery, as defined in Section 8880.65, shall be allocated as follows:

(a) Not less than 84 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes and net revenues to benefit public education.

(1) Fifty percent of the total annual revenues shall be returned to the public in the form of prizes as described in this chapter.

(2) At least 34 percent of the total annual revenues shall be allocated to the benefit of public education, as specified in Section 8880.5. However, for the 1998–99 fiscal year and each fiscal year thereafter, 50 percent of any increase in the amount calculated pursuant to this paragraph from the amount calculated in the 1997–98 fiscal year shall be allocated to school districts and community college districts for the purchase of instructional materials, on the basis of an equal amount per unit of average daily attendance, as defined by law, and through a fair and equitable distribution system across grade levels.

(3) All unclaimed prize money shall revert to the benefit of public education, as provided for in subdivision (e) of Section 8880.321.

(4) All of the interest earned upon funds held in the State Lottery Fund shall be allocated to the benefit of public education, as specified in Section 8880.5. This interest is in addition to, and shall not be considered as any part of, the 34 percent of the total annual revenues that is required to be allocated for the benefit of public education as specified in paragraph (2).

(5) No more than 16 percent of the total annual revenues shall be allocated for payment of expenses of the lottery as described in this chapter. To the extent that expenses of the lottery are less than 16 percent of the total annual revenues, any surplus funds also shall be allocated to the benefit of public education, as specified in this section or in Section 8880.5.

(b) Funds allocated for the benefit of public education pursuant to subdivision (a) are in addition to other funds appropriated or required under existing constitutional reservations for educational purposes. No program shall have the amount appropriated to support that program reduced as a result of funds allocated pursuant to subdivision (a). Funds allocated for the benefit of public education pursuant to subdivision (a) shall not supplant funds committed for child development programs.

(c) None of the following shall be considered revenues for the purposes of this section:

(1) Revenues recorded as a result of a nonmonetary exchange. “Nonmonetary exchange” means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(2) Reimbursements received by the lottery for the cost of goods or services provided by the lottery that are less than or equal to the cost of the same goods or services provided by the lottery.

(d) Reimbursements received in excess of the cost of the same goods and services provided by the lottery, as specified in paragraph (2) of subdivision (c), are not a part of the 34 percent of total annual revenues required to be allocated for the benefit of public education, as specified in paragraph (2) of subdivision (a). However, this amount shall be allocated for the benefit of public education as specified in Section 8880.5.

SEC. 4. Section 8880.4.5 is added to the Government Code, to read:

8880.4.5. Commencing with the 2009–10 fiscal year, total revenues of the lottery, as defined in Section 8880.65, for each fiscal year shall be allocated as follows:

(a) Not less than 87 percent of the total revenues shall be returned to the public as follows:

(1) The commission shall determine the percentage of total revenues that shall be returned to the public in the form of prizes

as set forth in this chapter, provided that the percentage shall not be less than 50 percent of the total revenues.

(2) One million dollars (\$1,000,000) shall be allocated to the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs for problem gambling awareness and treatment programs. No later than April 1 of each year, the Director of the Office of Problem and Pathological Gambling shall report to the commission on the effectiveness of problem gambling awareness and treatment efforts. The funding provided pursuant to this paragraph shall not replace or limit any other problem gambling awareness or treatment activity determined by the director to further the purposes of this chapter.

(3) The amount of net revenues designated by the Director of Finance as lottery revenue assets subject to sale pursuant to Article 6.7 (commencing with Section 63048.91) of Chapter 2 of Division 1 of Title 6.7 shall be transferred to the Lottery Assets Fund, which is hereby established in the State Treasury, and, notwithstanding Section 13340, is continuously appropriated for the purposes of that article.

(4) Net revenues remaining after the allocations made pursuant to paragraphs (1) through (3) shall be transferred to the Debt Retirement Fund, which is hereby established in the State Treasury. The Debt Retirement Fund may be appropriated by the Legislature for the purpose of repaying General Fund budgetary obligations, infrastructure bond debts, and the Economic Recovery Bonds, including reimbursement to the General Fund for the costs of these debts.

(b) No more than 13 percent of the total revenues shall be allocated for payment of expenses of the lottery as described in this chapter. To the extent that expenses of the lottery are less than 13 percent of the total revenues, surplus funds may be carried over from year to year upon a determination by the commission that the carryover furthers the purposes of this chapter, except that the total revenues allocated for payment, plus carried over revenue, shall not exceed 16 percent of the total revenues for the year in which carried over revenue is available. Excess carried over revenue shall be allocated pursuant to subdivision (a).

(c) None of the following shall be considered revenues for the purposes of this section:

(1) Revenues recorded as a result of a nonmonetary exchange. “Nonmonetary exchange” means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(2) Reimbursements received by the lottery for the cost of goods or services provided by the lottery that are less than or equal to the cost of the same goods or services provided by the lottery.

SEC. 5. Section 8880.5 of the Government Code is amended to read:

8880.5. The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this chapter. For fiscal years prior to the 2009–10 fiscal year, the Controller shall draw warrants on this fund and distribute them quarterly in the following manner, provided that the payments specified in subdivisions (a) to (g), inclusive, shall be equal per capita amounts.

(a) Payments shall be made directly to public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law and adjusted pursuant to subdivision (l).

(b) Payments shall also be made directly to public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(c) Payments shall also be made directly to the Board of Trustees of the California State University on the basis of an amount for each unit of equivalent full-time enrollment. Funds received by the trustees shall be deposited in and expended from the California State University Lottery Education Fund, which is hereby created or, at the discretion of the trustees, deposited in local trust accounts in accordance with subdivision (j) of Section 89721 of the Education Code.

(d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.

(e) Payments shall also be made directly to the Board of Directors of the Hastings College of the Law on the basis of an amount for each unit of equivalent full-time enrollment.

(f) Payments shall also be made directly to the Department of the Youth Authority for educational programs serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(g) Payments shall also be made directly to the two California Schools for the Deaf, the California School for the Blind, and the three Diagnostic Schools for Neurologically Handicapped Children, on the basis of an amount for each unit of equivalent full-time enrollment.

(h) Payments shall also be made directly to the State Department of Developmental Services and the State Department of Mental Health for clients with developmental or mental disabilities who are enrolled in state hospital education programs, including developmental centers, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(i) No Budget Act or other statutory provision shall direct that payments for public education made pursuant to this chapter be used for purposes and programs (including workload adjustments and maintenance of the level of service) authorized by Chapters 498, 565, and 1302 of the Statutes of 1983, Chapter 97 or 258 of the Statutes of 1984, or Chapter 1 of the Statutes of the 1983–84 Second Extraordinary Session.

(j) School districts and other agencies receiving funds distributed pursuant to this chapter may at their option utilize funds allocated by this chapter to provide additional funds for those purposes and programs prescribed by subdivision (i) for the purpose of enrichment or expansion.

(k) As a condition of receiving any moneys pursuant to subdivision (a) or (b), each district and county superintendent of schools shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as a lottery education account.

(l) Commencing with the 1998–99 fiscal year, and each year thereafter, for the purposes of subdivision (a), average daily attendance shall be increased by the statewide average rate of excused absences for the 1996–97 fiscal year as determined pursuant to the provisions of Chapter 855 of the Statutes of 1997. The statewide average excused absence rate, and the corresponding adjustment factor required for the operation of this subdivision,

shall be certified to the State Controller by the Superintendent of Public Instruction.

(m) It is the intent of this chapter that all funds allocated from the California State Lottery Education Fund and pursuant to Section 8880.5.5 shall be used exclusively for the education of pupils and students and no funds shall be spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

SEC. 6. Section 8880.5.5 is added to the Government Code, to read:

8880.5.5. (a) Notwithstanding Section 13340 of the Government Code, commencing with the 2009–10 fiscal year and each fiscal year thereafter, the following annual appropriations are hereby made from the General Fund:

(1) To the State Department of Education, for allocation to school districts, county offices of education, and charter schools serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law and adjusted pursuant to subdivision (l) of Section 8880.5, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (a) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in average daily attendance, as defined by law and adjusted pursuant to subdivision (l) of Section 8880.5, for school districts, county offices of education, and charter schools serving kindergarten and grades 1 to 12 from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(2) To the Board of Governors of the California Community Colleges, for allocation to community college districts, on the basis of an equal amount for each full time equivalent student, as defined by law, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (b) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full time equivalent students for community

college districts from the second preceding fiscal year to the preceding fiscal year and then by applying a cost of living adjustment pursuant to paragraph (10) of this subdivision.

(3) To the Board of Trustees of the California State University, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (c) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full-time equivalent students for the California State University system from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(4) To the Regents of the University of California, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (d) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full-time equivalent students for the University of California system from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(5) To the Board of Directors of the Hastings College of the Law, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (e) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full-time equivalent students for the Hastings College of the Law from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(6) To the California Department of Corrections and Rehabilitation, for educational programs serving kindergarten and grades 1 to 12, inclusive, or any part thereof, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (f) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount

appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the Department of Corrections and Rehabilitation Division of Juvenile Justice from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(7) To the State Department of Education, for support of the State Special Schools, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (g) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the State Special Schools from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(8) To the State Department of Developmental Services, for clients with developmental disabilities who are enrolled in developmental center education programs, an amount equal to the payments made to the State Department of Developmental Services during the 2008–09 fiscal year pursuant to subdivision (h) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the State Department of Developmental Services from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(9) To the State Department of Mental Health, for clients with mental disabilities who are enrolled in state hospital education programs, an amount equal to the payments made to the State Department of Mental Health during the 2008–09 fiscal year pursuant to subdivision (h) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the State Department of Mental Health from the second preceding fiscal

year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(10) The amounts appropriated pursuant to this subdivision shall be increased each year by the change in the cost-of-living determined pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution.

(b) The amounts appropriated for the 2009–10 fiscal year pursuant to paragraphs (1), (2), (6), (7), (8), and (9) of subdivision (a) shall be in addition to the sums required by, and shall not be considered towards fulfilling the funding requirements of, paragraph (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(c) The amounts appropriated for the 2009–10 fiscal year pursuant to paragraphs (1), (2), (6), (7), (8), and (9) of subdivision (a) shall not offset or in any way reduce the maintenance factor determined pursuant to subdivisions (d) and (e) of Section 8 of Article XVI of the California Constitution, and shall be in addition to the amount of maintenance factor allocated in the 2009–10 fiscal year pursuant to subdivision (e) of Section 8 of Article XVI of the California Constitution.

(d) Commencing with the 2009–10 fiscal year and each fiscal year thereafter, for the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by paragraphs (1), (2), (6), (7), (8), and (9) of subdivision (a) of this section shall be deemed to be included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code.

(e) Commencing with the 2009–10 fiscal year, the percentage determined pursuant to paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, as adjusted pursuant to Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code, shall be increased by adding to it the number of percentage points determined by dividing the total amount allocated pursuant to subdivisions (a), (b), (f), (g), and (h) of Section 8880.5 of the Government Code for the 2008–09 fiscal year by the total General Fund revenues that may be appropriated

pursuant to Article XIII B of the California Constitution for the 2008–09 fiscal year.

(f) Commencing with the 2009–10 fiscal year, references in law to lottery education funds, to funds allocated pursuant to Section 8880.5, to funds allocated from the California State Lottery Education Fund, or similar references in law to the proceeds of lottery revenues allocated for the benefit of public education to the entities described in subdivisions (a), (b), (f), (g), and (h) of Section 8880.5 shall be deemed to be references to the funds appropriated pursuant to this section. This subdivision shall be broadly construed to effectuate its purpose.

SEC. 7. Section 8880.25 of the Government Code is amended to read:

8880.25. The Lottery shall be operated so as to produce the maximum amount of net revenues available for allocation pursuant to Sections 8880.4 and 8880.4.5.

SEC. 8. Section 8880.26 of the Government Code is amended to read:

8880.26. (a) The provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 are not applicable to any rule or regulation promulgated by the commission.

(b) Section 2889 of the Public Utilities Code shall not be applicable to any live, recorded, or recorded-interactive audio text access telephone service under contract to the commission, as of the effective date of the act adding this subdivision, that provides the public with lottery game draw results.

(c) The provisions of the Public Contract Code shall not apply to expenditures made by the lottery in furtherance of its duty to produce the maximum amount of net revenues.

SEC. 9. Section 8880.321 of the Government Code is amended to read:

8880.321. The commission shall promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided that:

(a) For convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to six hundred dollars (\$600) after performing validation procedures on their premises appropriate to the lottery game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued

in error, unreadable, not received or not recorded by the lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the lottery game involved, purchased by a minor, or not in compliance with additional specific rules and regulations and confidential validation and security tests appropriate to the particular lottery game. The lottery may pay a prize even though the actual winning ticket is not received by the lottery if the lottery validates the claim for the prize based upon substantial proof. “Substantial proof” means any evidence that would permit the lottery to use established validation procedures, as specified in lottery regulations, to validate the claim.

The commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. This declaration shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any lottery game shall be paid more than once.

(d) The commission may specify that winners of less than twenty-five dollars (\$25) claim the prizes from either the same lottery game retailer from whom the ticket or share was purchased or from the lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the lottery game or play in which the prize was won. The commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the commission or for any on-line game prize within the period applicable for that prize, the unclaimed prize money shall be treated as set forth in subdivision (c) of Section 8880.4 or, commencing with the 2009–10 fiscal year, be treated as total revenues as set forth in Section 8880.4.5.

(f) After the expiration of the claim period for prizes for each lottery game, the commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a lottery game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the commission.

(g) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the commission, any officer or employee of the commission, any officer or employee of the

Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(h) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 10. Section 8880.38 of the Government Code is amended to read:

8880.38. (a) One of the deputy directors shall be the Deputy Director for Security, and be responsible for a security division to assure integrity, honesty, and fairness in the operation and administration of the California State Lottery, including, but not limited to, an examination of the qualifications and criminal history of all prospective and current employees, prospective and current Lottery Game Retailers, and prospective and current Lottery suppliers as defined in Section 8880.57. Fingerprints shall be obtained in this process and shall be furnished to the Department of Justice. The Department of Justice shall submit one set of the fingerprints to the Federal Bureau of Investigation as required, and shall retain the other set to obtain the California criminal history record that may be maintained.

(b) The Deputy Director for Security shall be qualified by training and experience, including at least five years of law enforcement experience, and shall have knowledge and experience in computer security, to fulfill these responsibilities. The Deputy Director for Security shall confer with the Attorney General or his or her designee and the Controller or his or her designee as the Deputy Director for Security deems necessary and advisable to promote and ensure integrity, security, honesty, and fairness of the operation and administration of the Lottery. The Deputy Director for Security shall report any alleged violation of any law related to the operations of the California State Lottery to the appropriate law enforcement agency and the Attorney General for further investigation and action. The Deputy Director for Security

and lottery security officers shall have access to criminal history information pursuant to Sections 11105 and 11105.01 of the Penal Code.

(c) Notwithstanding subdivision (a), the commission may adopt regulations for alternate methods of examining the qualifications and criminal history of lottery game retailers and lottery suppliers, as defined in Section 8880.57.

SEC. 11. Section 8880.48 of the Government Code is amended to read:

8880.48. (a) The director shall, pursuant to this chapter and the regulations of the commission, select as lottery game retailers those persons and organizations as the director deems shall best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 years shall be a lottery game retailer. In the selection of lottery game retailers, the director shall consider factors such as financial responsibility, integrity, reputation, accessibility of the place of business or activity to the public, security of the premises, the sufficiency of existing lottery game retailers to serve the public convenience, and the projected volume of the sales for the lottery game involved.

(b) In order to allow an evaluation of the competence, integrity, and character of potential lottery game retailers, the commission may require information it deems necessary of any person, corporation, trust, association, partnership, or joint venture applying for authority to act as a lottery game retailer.

(c) No person shall be a lottery game retailer if the person is engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state property, an owner or lessee of an establishment which sells alcoholic beverages, and a civic and fraternal organization may be selected as a lottery game retailer. The director may contract with lottery game retailers on a seasonal or temporary basis.

(d) The commission shall establish a formal written appeal process concerning the denial of an application for, or revocation of, a contract to be a lottery game retailer.

SEC. 12. Section 8880.56 of the Government Code is amended to read:

8880.56. (a) Notwithstanding any other provision of this chapter or of any other law, the director has express authority,

subject only to commission approval, to make any and all expenditures that are necessary or reasonable for effectuating the purposes of this chapter, including, but not limited to, payment for the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, consumer, retailer, and employee incentives, public relations, communications, compensation paid to the lottery game retailers, bonding for lottery game retailers, printing, distribution of tickets or shares, reimbursement of costs of services provided to the lottery by other governmental entities, and payment for the costs of any other goods and services necessary or reasonable for effectuating the purposes of this chapter. The director may not contract with any private party for the operation and administration of the California State Lottery, created by this chapter. However, this section does not preclude procurements that integrate functions. In all procurement decisions, the director shall, subject to the approval of the commission, award contracts to the responsible supplier submitting the best proposal that maximizes the benefits to the state in relation to the areas of security, competence, experience, and timely performance, shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of raising net revenues for the benefit of the public purpose described in this chapter.

(b) Notwithstanding any other provision of this chapter, the following shall apply to contracts or procurement by the lottery:

(1) To ensure the fullest competition, the commission shall adopt and publish competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than five hundred thousand dollars (\$500,000). The competitive bidding procedures shall include, but not be limited to, requirements for submission of bids and accompanying documentation, guidelines for the use of requests for proposals, invitations to bid, or other methods of bidding, and a bid protest procedure. The director shall determine whether the goods or services subject to this paragraph are available through existing contracts or price schedules of the Department of General Services.

(2) The contracting standards, procedures, and rules contained in this subdivision shall also apply with respect to any subcontract

involving an expenditure of more than five hundred thousand dollars (\$500,000). The commission shall establish, as part of its bidding procedures for general contracts, subcontracting guidelines that implement this requirement.

(3) The provisions of Article 1 (commencing with Section 11250) of Chapter 3 of Part 1 of Division 3 apply to the commission.

(4) The commission is subject to the Small Business Procurement and Contract Act, as provided in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3.

(5) In advertising or awarding any general contract for the procurement of goods and services exceeding five hundred thousand dollars (\$500,000), the commission and the director shall require all bidders or contractors, or both, to include specific plans or arrangements to utilize subcontracts with socially and economically disadvantaged small business concerns. The subcontracting plans shall delineate the nature and extent of the services to be utilized, and those concerns or individuals identified for subcontracting if known.

It is the intention of the Legislature in enacting this section to establish as an objective of the utmost importance the advancement of business opportunities for these small business concerns in the private business activities created by the California State Lottery. In that regard, the commission and the director shall have an affirmative duty to achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs.

By July 1, 1986, the commission shall adopt proposal evaluation procedures, criteria, and contract terms which are consistent with the advancement of business opportunities for small business concerns in the private business activities created by the California State Lottery and which will achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs. The proposal evaluation procedures, criteria, and contract terms adopted shall be reported in writing to both houses of the Legislature on or before July 1, 1986.

For the purposes of this section, socially and economically disadvantaged persons include women, Black Americans, Hispanic Americans, Native Americans (including American Indians,

Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities or any other natural persons found by the commission to be disadvantaged.

The commission shall report to the Legislature by July 1, 1987, and by each July 1 thereafter, on the level of participation of small businesses, socially and economically disadvantaged businesses, and California businesses in all contracts awarded by the commission.

(6) The commission shall prepare and submit to the Legislature by October 1 of each year a report detailing the lottery's purchase of goods and services through the Department of General Services. The report shall also include a listing of contracts awarded for more than one hundred thousand dollars (\$100,000), the name of the contractor, amount and term of the contract, and the basis upon which the contract was awarded.

(c) The lottery shall fully comply with the requirements of paragraphs (2) to (5), inclusive, of subdivision (b), except that any function or role which is otherwise the responsibility of the Department of Finance or the Department of General Services shall instead, for purposes of this subdivision, be the sole responsibility of the lottery, which shall have the sole authority to perform that function or role.

(d) Where a conflict exists between the provisions of this chapter and any other provision of law, the provisions of this chapter shall control.

SEC. 13. Section 8880.62 of the Government Code is amended to read:

8880.62. Funds shall be disbursed from the State Lottery Fund by the Controller for any of the purposes authorized by this chapter.

SEC. 14. Section 8880.63 of the Government Code is repealed.

SEC. 15. Section 8880.64 of the Government Code is amended to read:

8880.64. (a) Expenses of the lottery shall include all costs incurred pursuant to Section 8880.56. As a promotional expense, the commission may supplement the prize pool of a game or games upon its determination that a supplement will benefit the public purpose of this chapter.

(b) Expenses recorded as a result of a nonmonetary exchange shall not be considered an expense for the purposes of Sections 8880.4 and 8880.4.5 and this section. “Nonmonetary exchange” means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

SEC. 16. Section 8880.65 of the Government Code is amended to read:

8880.65. (a) For the purposes of this chapter, the total revenues of the lottery shall include all revenue received by the California State Lottery, including, but not limited to, revenue from the sale of tickets or shares, merchandising revenue, advertising revenue, interest earnings on moneys in the State Lottery Fund, and unclaimed prizes returned to or retained by the State Lottery Fund. The net revenues of the lottery shall include total revenues remaining after accrual of all obligations of the lottery for prizes and expenses.

(b) For fiscal years prior to the 2009–10 fiscal year, the net revenues of the lottery shall be transferred from the State Lottery Fund not less than quarterly to the California State Lottery Education Fund.

(c) Commencing with the 2009–10 fiscal year, the net revenues of the lottery shall be transferred from the State Lottery Fund as required by Section 8880.4.5.

SEC. 17. Section 5 of the California State Lottery Act of 1984 is amended to read:

Sec. 5. The provisions of this Act, except Sections 8880.5 and 8880.5.5 which may be amended only by a vote of the People, may be changed for the purpose of modernizing the California State Lottery or to further the purposes of this Act as set forth in Sections 8880.1 and 8880.25 of the Government Code by a bill passed by a vote of two-thirds of the membership of both houses of the Legislature and signed by the Governor.

SEC. 18. Notwithstanding any other provision of law, the Secretary of State shall submit to the voters, as a single measure, at the next statewide election, the provisions of Senate Constitutional Amendment 12 of the 2007–08 Regular Session and the provisions of this act that are required to be submitted to the voters.

SEC. 19. (a) Sections 1 to 7, inclusive, Section 12, and Sections 14 to 17, inclusive, of this act amend Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code, an initiative statute, and shall become effective only when submitted to and approved by the voters.

(b) Notwithstanding the requirements of Sections 9040, 9043, 9044, 9061, and 9082 of the Elections Code or any other provision of law, the Secretary of State shall submit Sections 1 to 7, inclusive, Section 12, and Sections 14 to 17, inclusive, of this act and Senate Constitutional Amendment 12 to the voters at the next statewide election.

(c) (1) Notwithstanding any other provision of law, all ballots for the next statewide election shall contain the following ballot label:

“LOTTERY MODERNIZATION ACT. Raises revenues for the payment of General Fund obligations and allows modernization of the California State Lottery to improve the efficiency of the operation of the Lottery.”

(2) At the appropriate location on the ballot, in the manner prescribed by law, there shall be provided the opportunity for voters to indicate whether they vote for or against the measure.

(d) Notwithstanding Sections 13247 and 13281 of the Elections Code or any other provision of law, the language in subdivision (c) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(e) (1) Notwithstanding any other provision of law, all ballots for the next statewide election shall contain the following ballot title and summary:

“LOTTERY MODERNIZATION ACT. INCREASED STATE REVENUES. PROTECTS EDUCATION FUNDING. Allows the state Lottery to be modernized to improve its performance with

increased payouts, improved marketing, and effective management. Ensures the state maintains ownership of the state lottery. Increases revenues that will be used to increase payouts, build a needed budget reserve, and pay down state bond debt. Ensures that schools continue to receive the same dollar amount or more funding than previously received from Lottery revenues.”

(2) Notwithstanding any other provision of law, the language in paragraph (1) shall be the only language included in the ballot title and summary, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code.

(f) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters’ choices by means thereof are in compliance with this section.

SEC. 20. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that Sections 1 to 7, inclusive, Section 12, and Sections 14 to 17, inclusive, of this act are submitted to the voters at the next statewide election, it is necessary that this act take effect immediately.

Approved _____, 2008

Governor